

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

:

Hon. Michael A. Hammer

Mag. No. 23-10053

v.

:

BADER ALZAHRANI,

:

**ORDER VACATING PRIOR  
ORDER FINDING  
DEFENDANT INCOMPETENT  
PURSUANT TO U.S.C. §4241**

This matter having come before the Court on July 25, 2023, during a hearing on the mental competency of defendant Bader Alzahrani pursuant to Title 18, United States Code, Section 4241(c) and Section 4247(d), Philip R. Sellinger, United States Attorney for the District of New Jersey (Benjamin Levin, Assistant U.S. Attorney, appearing) and the defendant Bader Alzahrani (Frederica Miller, Esq. appearing with defendant and with a sworn interpreter) and the Court having considered all of the evidence presented, *and for the reasons set forth on the record on July 25, 2023* and finding that the prior Order pursuant to 18 U.S.C. Section 4241(d) shall be vacated, for good and sufficient cause shown,

IT IS THE FINDING OF THIS COURT that:

1. On March 3, 2023, the defendant was evaluated by Joanna Bajgier, D.O. a board certified adult and forensic psychiatrist retained by defense counsel;
2. On March 12, 2023, Dr. Bajgier issued a report concerning defendant's competency and she determined that defendant was not competent;
3. On March 27, 2023, Dr. Bajgier's report was submitted to be filed under seal to the Court for review pursuant to Title 18, United States Code Section 4247(b) and (c).
4. On April 3, 2023, the Court held a hearing pursuant to Title 18, United States

Code, Section 4241(c) and Section 4247 (d) at the request of the parties to evaluate Dr. Bajgier's report and, upon review, the Court concluded that the defendant was suffering from a mental disease or defect rendering him mentally incompetent to the extent that he was unable to understand the nature and consequences of the proceedings against him or to properly assist in his defense, by a preponderance of the evidence;

5. On April 3, 2023, the Court issued an Order committing the defendant to the custody of the Attorney General or his authorized representative;
6. The defendant was placed on a waiting list to be transferred to Federal Medical Center Butner in North Carolina and he is presently awaiting transfer;
7. On June 30, 2023, the defendant was evaluated by Aderonke Oguntoye, M.D., a double board certified adult and forensic psychiatrist retained by defense counsel;
8. On July 5, 2023, Dr. Oguntoye issued a comprehensive report concerning the defendant's competency, and concluded that the defendant was competent to stand trial with a reasonable degree of medical certainty;
9. On July 10, 2023, Dr. Oguntoye report was submitted to be filed under seal to the Court for review pursuant to Title 18, United States Code, Section 4247(b) and (c);
10. On July 25, 2023, the Court held a hearing pursuant to Title 18, United States Code, Section 4241(c) and Section 4247(d) at the request of the parties to evaluate Dr. Oguntoye's report; and
11. Upon review of Dr. Oguntoye's report, re-review of Dr. Bajgier's report, and hearing from the attorney for the defendant, and receiving no opposition from the Government,

the Court hereby concludes that the defendant is not presently suffering from a mental disease or defect rendering him mentally incompetent, by a preponderance of the evidence.

IT IS HEREBY ORDERED:

1. That the Order dated March 27, 2023, pursuant to Title 18, United States Code, Section 4142(d), committing the defendant to the custody of the Attorney General or his authorized representative is hereby vacated;
2. That the Order remanding the defendant to the custody of the U.S. Marshal, subject to his designation to an appropriate facility by the Federal Bureau of Prisons for hospitalization for treatment in a suitable facility is hereby vacated;
3. That the period following the date of this Order shall not be excludable in computing time under the Speedy Trial Act of 1974, unless the Court grants an order for a continuance under U.S.C. §3161(h)(7)(A) at the parties' request and in the interests of justice.

It is so ORDERED on this 28<sup>th</sup> day of July, 2023.

A handwritten signature in black ink, appearing to read "Michael A. Hammer", written over a horizontal line.

HON. MICHAEL HAMMER  
United States Magistrate Judge

At Newark, New Jersey

Form and entry  
Consented to:

*Benjamin* *Levin*

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BENJAMIN LEVIN  
Assistant United States Attorney

*F. Miller*

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FREDERICA MILLER, ESQ.  
Counsel for Bader Alzahrani